

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

THOMAS E. PEREZ, )  
SECRETARY OF LABOR, ) FILE NO. \_\_\_\_\_  
UNITED STATES DEPARTMENT OF LABOR, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
ANTICO FOODS, LLC, and )  
GIOVANNI DIPALMA, )  
 )  
Respondent. )

**THE SECRETARY OF LABOR'S APPLICATION FOR A TEMPORARY  
RESTRANING ORDER AND ORDER FOR DEFENDANTS TO SHOW CAUSE  
WHY A PRELIMINARY INJUNCTION SHOULD NOT ISSUE**

Plaintiff Thomas E. Perez, Secretary of Labor for the United States Department of Labor (hereinafter “the Secretary”), applies, pursuant to Rule 65 of the Federal Rules of Civil Procedure and Section 217 of the Fair Labor Standards Act (hereinafter “the FLSA”), 29 U.S.C. § 217, for a temporary restraining order (hereinafter “TRO”), and an order for Defendants Antico Foods, LLC and Giovanni DiPalma (hereinafter “Defendants”) to show cause why a preliminary injunction should not issue, enjoining them from violating the anti-retaliation provision of Section 15(a)(3) of the FLSA, 29 U.S.C. § 215(a)(3).

This request is urgent. The Secretary’s investigation and future enforcement action are threatened with irreparable harm if Defendants are allowed to continue to retaliate against employees through harassment, interference and threats of termination and deportation for exercising their right to provide information to the Secretary regarding Defendants’ wage practices. Such threats, if successful, will prevent witness participation not only in this

investigation and enforcement action, but also in other cases by deterring other workers from exercising their right to communicate with the government without fear of retaliation.

Defendants must immediately be prevented from continuing such unlawful conduct lest their threats be carried out and employees either lose their livelihood or suffer other harm.

PLEASE TAKE NOTICE that upon the Application for Temporary Restraining Order and Order for Defendants to Show Cause Why a Preliminary Injunction Should Not Issue, the Affidavits of Ashley Swopes and Andrew Vissman, and the Memorandum of Law, the undersigned hereby moves this Court for an Order to:

1. Enjoin Defendants from terminating or threatening to terminate, causing any employee to be deported or threatening to cause any employee to be deported, or retaliating or discriminating in any way against current and former employees of Antico Foods, LLC based on Defendants' belief that an employee spoke with or intends to speak with a Department of Labor Wage and Hour investigator, filed a complaint with the Department of Labor, or cooperated in any way in the Wage and Hour investigation currently being conducted of Antico Foods, LLC;
2. Enjoin Defendants from telling anyone who works for them not to speak to representatives of the Department of Labor or to provide false information to the Department of Labor or otherwise coerce employees to make false statements regarding the terms and conditions of their employment;
3. Enjoin Defendants from obstructing the Secretary's investigation in any manner;
4. Require Defendants to permit a designee of the Secretary to read the following statement aloud in English and Spanish, to all employees of Antico Foods, LLC during paid work hours informing them of their right to speak, without retaliation or threats of retaliation or intimidation, with Wage and Hour investigators regarding the instant investigation:

You are protected by the Fair Labor Standards Act and have the right to participate freely in the U.S. Department of Labor's investigation into your employer's pay practices. You have the right to speak freely with investigators or other officials from the Department of Labor. Your employer is prohibited from retaliating against you in any way, including termination, because you spoke with the Department of Labor.

The U.S. District Court for the Northern District of Georgia has ordered Giovanni DiPalma, and anyone acting on his behalf, to cease coercing, retaliating against, threatening to retaliate against, intimidating, or

attempting to influence or in any way threatening employees for providing information to the Department of Labor. The Court has prohibited Giovanni DiPalma from contacting or communicating with employees of Antico Foods concerning any communication between employees and the Department of Labor.

*Usted está protegido por la Ley de Normas Justas de Trabajo y tiene el derecho de participar libremente en la investigación del Departamento de Trabajo sobre las prácticas de pago por parte de su patrono. Usted tiene el derecho de hablar libremente con investigadores u otras personas del Departamento de Trabajo. Su empleador está prohibido de hacer represalias contra de usted de cualquier manera incluyendo la terminación de usted, porque usted habló con el Departamento de Trabajo.*

*El Tribunal Federal de Distrito Norte de Georgia ha ordenado que Giovanni diPalma, y cualquier persona que actúe en el nombre de él, cesen coerción ,tomar represalias en contra, amenazar con tomar represalias en contra, intimidación, intentar influir o amenazar de cualquier manera los empleados por dar información al Departamento de Trabajo. El Tribunal ha prohibido que la señor DiPalma contacte o comunique con empleados de Antico Foods acerca de cualquier comunicación entre ellos y el Departamento de Trabajo.*

5. Require Defendants to post at each Antico Foods, LLC worksite a hard copy of the statement referred to in ¶ 4 above, in both English and Spanish;
6. Prohibit Defendants from speaking to employees of Antico Foods, LLC, either directly or through another person acting on his behalf, regarding any communication any employee has or will have with the Secretary about the pending investigation by Wage and Hour;
7. Provide for costs and expenses to reimburse the Secretary in maintaining this application; and
8. Order all such other relief as may be appropriate, just, and proper.

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M. PATRICIA SMITH  
Solicitor of Labor

STANLEY E. KEEN  
Regional Solicitor

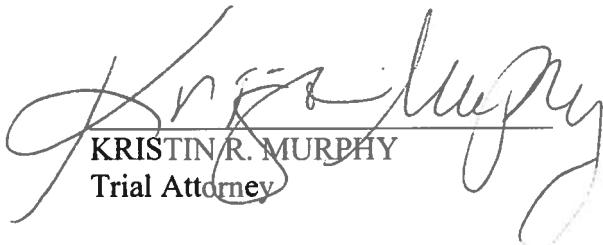
ROBERT L. WALTER  
Counsel

By:/s/ Kristin R.Murphy  
KRISTIN R. MURPHY  
Attorney  
Office of the Solicitor  
U. S. Department of Labor  
Attorneys for Plaintiff.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *The Secretary of Labor's Application for a Temporary Restraining Order and Order for Defendants to Show Cause Why a Preliminary Injunction Should Issue, Memorandum of Law in Support of the Plaintiff's Application for a Temporary Restraining Order and Order for Defendants to Show Cause Why a Preliminary Injunction Should Issue, Proposed Order to Show Cause Why a Preliminary Injunction Should Not Issue, and Proposed Temporary Restraining Order* was served this 30<sup>th</sup> day of September, 2014, by USPS addressed to:

Antico Foods, LLC  
1093 Hemphill Avenue NW  
Atlanta, GA 30318

  
KRISTIN R. MURPHY  
Trial Attorney